

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 598

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
INCREASING THE SENTENCING ENHANCEMENT FOR PRIOR DWI CONVICTIONS
WHEN A PERSON COMMITS HOMICIDE BY VEHICLE OR GREAT BODILY HARM
BY VEHICLE WHILE DWI; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-8-101 NMSA 1978 (being Laws 1978,
Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY [~~INJURY~~]
HARM BY VEHICLE.--

A. Homicide by vehicle is the killing of a human
being in the unlawful operation of a motor vehicle.

B. Great bodily [~~injury~~] harm by vehicle is the
injuring of a human being, to the extent defined in Section
30-1-12 NMSA 1978, in the unlawful operation of a motor

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underscored material = new
[bracketed material] = delete

1 vehicle.

2 C. ~~[Any]~~ A person who commits homicide by vehicle
3 or great bodily ~~[injury]~~ harm by vehicle while under the
4 influence of intoxicating liquor or while under the influence
5 of any drug or while violating Section 66-8-113 NMSA 1978 is
6 guilty of a third degree felony and shall be sentenced pursuant
7 to the provisions of Section 31-18-15 NMSA 1978, provided that
8 violation of speeding laws as set forth in the Motor Vehicle
9 Code shall not per se be a basis for violation of Section 66-8-
10 113 NMSA 1978.

11 D. ~~[Any]~~ A person who commits homicide by vehicle
12 or great bodily ~~[injury]~~ harm by vehicle while under the
13 influence of intoxicating liquor or while under the influence
14 of any drug, as provided in Subsection C of this section, and
15 who has incurred a prior DWI conviction within ten years of the
16 occurrence for which he is being sentenced under this section
17 shall have his basic sentence increased by ~~[two]~~ four years for
18 each prior DWI conviction.

19 E. For the purposes of this section, "prior DWI
20 conviction" means:

21 (1) a prior conviction under Section 66-8-102
22 NMSA 1978; or

23 (2) a prior conviction in New Mexico or any
24 other jurisdiction, territory or possession of the United
25 States or of a tribe when the criminal act is driving under the

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1 influence of alcohol or drugs.

2 F. ~~[Any]~~ A person who willfully operates a motor
3 vehicle in violation of Subsection C of Section 30-22-1 NMSA
4 1978 and directly or indirectly causes the death of or great
5 bodily ~~[injury]~~ harm to a human being is guilty of a third
6 degree felony and shall be sentenced pursuant to the provisions
7 of Section 31-18-15 NMSA 1978."

8 Section 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2004.